

CHARTER

OF THE

Town of Somerset

MONTGOMERY COUNTY, MARYLAND

*As found in the Public Local Laws of Montgomery County
1977 Replacement Volume, as amended*

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CONTENTS

ARTICLE I General Corporate Powers and Corporate Limits

Section

- 83-1. General corporate powers.
- 83-2. Corporate limits.

ARTICLE II The Council

- 83-3. Number, election, term of office and salaries.
- 83-4. Qualifications of councilmen.
- 83-5. Meetings of the council.
- 83-6. President and vice-president of council.
- 83-7. Quorum.
- 83-8. Procedure of council.
- 83-9. Ordinances — Adoption.
- 83-10. Same — Veto.
- 83-11. Same — Referenda.
- 83-11A. Recall of elected officials.
- 83-12. File of ordinances.

ARTICLE III The Mayor

- 83-13. Selection and term.
- 83-14. Qualifications.
- 83-15. Salary.
- 83-16. Powers and duties.

ARTICLE IV The Powers of the Town

- 83-17. General powers.
- 83-18. Specific powers.
- 83-19. Exercise of powers.
- 83-20. Enforcement.

ARTICLE V

Registration, Nominations and Elections

- 83-21. Voters.
- 83-22. Board of supervisors of elections — Membership; appointment, term of office, qualifications and compensation of members; chair; filling vacancies.
- 83-23. Same — Removal of members.
- 83-24. Same — Duties.
- 83-25. Notice of elections and registration days.
- 83-26. Registration of voters.
- 83-27. Appeals from action of board of supervisors of elections.
- 83-28. Nominations.
- 83-29. Election of mayor and councilmen.
- 83-30. Conduct of elections.
- 83-31. Special elections.
- 83-32. Vote count.
- 83-33. Preservation of ballots.
- 83-34. Vacancies.
- 83-35. Women.
- 83-36. Regulation and control.
- 83-37. Penalties.

ARTICLE VI

Finance

- 83-38. Clerk-treasurer.
- 83-39. Powers and duties of clerk-treasurer.
- 83-40. Fiscal year.
- 83-41. Budget.
- 83-42. Budget adoption.
- 83-43. Appropriations.
- 83-44. Transfer of funds.
- 83-45. Over-expenditure forbidden.
- 83-46. Lapse of appropriations and treatment of surplus.
- 83-47. Deposit or investment of funds.
- 83-48. Taxable property and assessments.
- 83-49. Budget authorizes levy.
- 83-50. Notice of tax levy.
- 83-51. When taxes are overdue.
- 83-52. Sale of tax delinquent property.
- 83-53. Fees.
- 83-54. Fines, forfeitures and penalties.
- 83-55. Audit.
- 83-56. Tax anticipation notes.
- 83-57. Bonds.
- 83-58. Bond anticipation notes.

- 83-58A. Loans.
- 83-59. Payment of indebtedness.
- 83-60. Purchasing and contracts.

ARTICLE VII

Personnel

- 83-61. Clerk to the council.
- 83-62. Town attorney.
- 83-63. Authority to employ personnel.
- 83-64. Retirement system.
- 83-65. Compensation of employees.
- 83-66. Employee benefit programs.

ARTICLE VIII

Public Ways and Utilities

- 83-67. Definition of “public ways.”
- 83-68. Control of public ways.
- 83-69. Powers of town as to public ways generally.
- 83-70. Powers of town as to sidewalks.
- 83-71. Powers of town as to storm water drainage system.
- 83-72. Placing structures in public ways.
- 83-73. Obstructions.
- 83-74. Entering on county public ways.
- 83-75. Connections.
- 83-76. Private systems.
- 83-77. Extensions beyond boundaries.
- 83-78. Right of entry.

ARTICLE IX

Special Benefit Assessments

- 83-79. Power.
- 83-80. Procedure.

ARTICLE X

Town Property

- 83-81. Acquisition, possession and disposal.
- 83-82. Condemnation.
- 83-83. Town buildings, structures and improvements.
- 83-84. Protection, administration and operation of town property.

ARTICLE XI

General Provisions

- 83–85. Oath of office.
- 83–86. Official bonds.
- 83–87. Publication and notices.
- 83–88. Municipal Infractions and Misdemeanors.
- 83–89. Prior rights and obligations.
- 83–90. Effect of Charter on corporate status and on existing ordinances, resolutions, rules and regulations.
- 83–91. Amendments of Charter.
- 83–92. Saving clause.
- 83–93. Separability.

SOMERSET

(See note (1))

ARTICLE I

General Corporate Powers and Corporate Limits

Section 83-1. General corporate powers.

The inhabitants of the Town of Somerset, in Montgomery County, within the corporate limits legally established from time to time, are hereby constituted and continued a body corporate by the name of "The Town of Somerset" with all the powers and privileges of a body politic and corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal, to hold real, personal, and mixed property when the best interests of the town so demand, and to have perpetual succession, unless the Charter and the corporate existence are legally abrogated. (Mont. Co. Code 1965, § 59-1.)

Section 83-2. Corporate limits.

A description of the corporate boundaries of the town at all times shall be on file with the clerk-treasurer and with such other officials and agencies as required by law. The corporate boundaries are as follows:

Being a piece or parcel of land in the Bethesda (7th) District of Montgomery County, Maryland; and being more particularly described as follows:

Beginning for the same at a point at the end of the North 65° 17' 45" East 489.53 foot plat line of Lot 12 as shown on a plat of subdivision entitled "Lot 12, Block B, Friendship Heights" and recorded among the Land Records of Montgomery County, Maryland, in Plat Book 77 as Plat 7779, said point also being South 72° 09' 20" West 1415 feet, more or less, from a stone marked I.T.5F.V. found at the end of the South 52° 45' 05" West 372.42 foot plat line as shown on a plat of subdivision entitled "Parcel 'A', Block 9, Somerset Heights" and recorded among the aforesaid Land Records in Plat Book 78 as Plat 7813; and running thence reversely with the aforesaid 489.53 foot plat line in the meridian of the aforesaid plat recorded in Plat 7813

1. South 60° 31' 05" West, 489.53 feet to a point; thence
2. South 10° 30' 20" East, 98.50 feet to a point on the northerly right of way line of Willard Avenue; thence running along said right of way line
3. South 79° 29' 40" West, 107.57 feet to a point on the first deed line as described in a deed from Lester B. Cook, et ux, to the Town of Somerset, Maryland, dated December 30, 1965, and recorded among the aforesaid Land Records in Liber 3582 at Folio 429; thence with said deed line
4. North 71° 58' 00" West, 203.20 feet to a point on the easterly line of extension of the South 71° 13' 55" West 361.31 foot plat line as shown on a plat of subdivision entitled "Part of

Block 'H', Somerset Heights" and recorded among the aforesaid Land Records in Plat Book 76 as Plat 7548; thence running with part of said line of extension

5. South 72° 09' 20" West, 273.93 feet to a point at the northerly most corner of Lot 25, Block H, as shown on a plat of subdivision entitled "Lots 25 and 26, Block 'H', Somerset Heights" and recorded among the aforesaid Land Records in Plat Book 105 as Plat 12136; thence running along the outlines of said Lot 25 and also along Lot 26, Block H, as shown on said plat, six (6) following courses and distances

6. South 17° 50' 41" East, 70.00 feet to a point; thence

7. South 37° 06' 00" West, 155.11 feet to a point; thence

8. North 56° 47' 12" West, 77.90 feet to a point; thence

9. North 48° 12' 21" West, 18.02 feet to a point; thence

10. South 55° 46' 33" West, 180.31 feet to a point; thence

11. North 34° 13' 27" West, 139.46 feet to a point on the aforesaid 361.31 foot plat line; thence running with part of said plat line

12. South 72° 09' 20" West, 232.17 feet, more or less, to a point on the northeasterly edge of River Road; thence running along said edge

13. North 50° 11' 40" West, 406 feet, more or less, to a point on the fourth deed line as described in a deed from Thomas Hyde, Trustee, to John E. Beall and Ralph Walsh, dated March 1, 1890, and recorded among the aforesaid Land Records in Liber J.A. 17 at Folio 151; thence running reversely with said deed line

14. North 08° 52' 10" West, 2800 feet, more or less, to a stone at the foot of a blazed cedar tree, said stone also being at the southwesterly corner of the land now or formerly owned by General R.C. Drum; thence running along a line dividing the said Drum land from that land as described in the aforesaid deed recorded in Liber J.A. 17 at Folio 151

15. South 82° 59' 40" East, 3650 feet, more or less, to a point on the westerly right of way line of Wisconsin Avenue (U.S. Route 240); thence running approximately along said right of way line

16. South 11° 41' 35" East, 840 feet, more or less, to a point at the end of the North 69° 50' 54" East 152.10 foot plat line as shown on the aforesaid plat recorded in Plat Book 78 as Plat 7813; thence running reversely with said plat line

17. South 69° 50' 54" West, 152.10 feet to a point; thence continuing to run along the outline of Parcel A as shown on the aforesaid plat recorded in Plat Book 78 as Plat 7813, the seven (7) following courses and distances

18. South 79° 25' 45" West, 174.60 feet to a point; thence
19. North 75° 31' 40" West, 95.50 feet to a point; thence
20. North 81° 43' 42" West, 391.35 feet to a point; thence
21. South 08° 38' 20" West, 200.00 feet to a point; thence
22. South 09° 00' 40" East, 230.87 feet to a point; thence
23. South 50° 40' 40" West, 248.94 feet to a point; thence
24. South 08° 38' 20" West, 470.00 feet to a point on the South 72° 09' 20" West, 1865.89 foot plat line as shown on the aforesaid plat recorded in Plat Book 78 as Plat 7813, 966.16 feet from the beginning thereof; thence running with part of said plat line
25. South 72° 09' 20" West, 448.84 feet to the place of beginning; containing approximately 172 acres of land. (Mont. Co. Code 1965, § 59-2, Reso. R-3-79, 4-19-79; Reso. R-4-80, 6-24-80; Reso. R-9-87/Ch. Am. No. 1-88, 4-28-88.)

ARTICLE II

The Council

Section 83-3. Number, election, term of office and salaries.

The legislative powers of the town shall be vested in a council, consisting of five councilmen who shall be elected at large as hereinafter provided, and who shall hold office for a term of two years or until their successors take office. The regular term of councilmen shall commence on the first Monday following their election. Councilmen holding office at the time this Charter becomes effective shall continue to hold office for the term for which they were elected and until their successors take office under the provisions of this Charter. Councilmen shall receive no salary for their services. (Mont. Co. Code 1965, § 59-3.)

Section 83-4. Qualifications of councilmen.

Councilmen shall (1) be citizens of the United States, (2) have resided in the town for at least eighteen months immediately preceding their election, and (3) be qualified voters of the Town of Somerset and of the State of Maryland. (Mont. Co. Code 1965, § 59-4, Reso. R-5-79, 7-24-79.)

Section 83-5. Meetings of the council.

The council shall meet at 8:00 P.M. on the first Monday following the election of new members for the purpose of organization, after which the council shall meet regularly at such

times as may be prescribed by its rules but not less frequently than once each month. Special meetings shall be called by the clerk–treasurer upon the request of the mayor or a majority of the members elected to the council. All meetings, regular and special, of the council shall be public meetings and open to the public at all times, and residents of the town shall have a reasonable opportunity to be heard at such meeting in regard to any town matter. Nothing contained herein shall be construed to prevent the holding of an executive session, but no ordinance, resolution, rule, or regulation shall be finally adopted at such an executive session. (Mont. Co. Code 1965, § 59–5.)

Section 83–6. President and vice–president of council.

(a) The mayor shall serve as president of the council. The mayor may take part in all discussions, but he shall have no vote except in case of a tie.

(b) The council shall each year, at its regular meeting on the first Monday following the election of new members, elect a vice–president of the council from among its members, who shall act as president of the council in the absence of the mayor. (Mont. Co. Code 1965, § 59–6.)

Section 83–7. Quorum.

A majority of the members elected to the council shall constitute a quorum for the transaction of business, but no ordinance shall be approved without the favorable votes of at least three members of the council. (Mont. Co. Code 1965, § 59–7.)

Section 83–8. Procedure of council.

The council shall by resolution determine its own rules and order of business. It shall keep a record of its proceedings and enter therein the yeas and nays upon final action on any ordinance, resolution, rule, or regulation, and if required by any one member, on any other subject. The record shall be reasonably available for public inspection. (Mont. Co. Code 1965, § 59–8.)

Section 83–9. Ordinances — Adoption.

No ordinance shall be passed at the meeting at which it is introduced, nor shall it be acted upon until notice of its introduction and title has been published as provided in section 83–87 of this Charter. At any regular or special meeting of the council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be passed; or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency, all the above requirements in this section may be suspended by the affirmative votes of at least four members of the council. Every ordinance, unless it be passed as an emergency ordinance, or unless it is an ordinance adopting a budget, making appropriations, or levying property taxes or special benefit assessments, shall become effective at the expiration of thirty–six calendar days following approval by the mayor or passage by the council over his veto. An emergency ordinance, or an ordinance adopting a budget, making appropriations, or levying property taxes or special benefit assessments, shall become effective on the date specified in the

ordinance, but no ordinance shall become effective until approved by the mayor or passed over his veto by the council. Each ordinance or a summary thereof shall be published as provided in section 83–87 of this Charter within twenty days after its approval by the mayor or passage over his veto. (Mont. Co. Code 1965, § 59–9; Res. R–4–95, 12–26–95.)

Section 83–10. Same — Veto.

All ordinances, resolutions, rules and regulations passed by the council shall be delivered within three days by the clerk–treasurer to the mayor for his approval or disapproval. If the mayor approves any ordinance, resolution, rule, or regulation, he shall sign it; if he disapproves it, he shall not sign it. The mayor shall return all ordinances, resolutions, rules and regulations to the clerk–treasurer within six days after delivery to him (including the days of delivery and return and excluding Sunday) with his approval or disapproval. Any ordinance, resolution, rule, or regulation disapproved by the mayor shall be returned with a message stating the reasons for his disapproval. Any disapproved ordinance, resolution, rule, or regulation shall not become a law unless subsequently passed by a favorable vote of at least four members of the council within thirty–five calendar days from the time of its return. If the mayor fails to return any ordinance, resolution, rule, or regulation within six days of its delivery as aforesaid, it shall be deemed to be approved by the mayor and shall become law in the same manner as if signed by him. (Mont. Co. Code 1965, § 59–10; Res. R–4–95, 12–26–95.)

Section 83–11. Same — Referenda.

If, before the expiration of thirty–six calendar days following approval of any ordinance by the mayor or passage of any ordinance over the mayor’s veto, a petition is filed with the clerk–treasurer containing the signatures of not less than twenty per centum of the qualified voters of the town and requesting that the ordinance, or any part thereof, be submitted to a vote of the qualified voters of the town for their approval or disapproval, the council shall have the ordinance, or the part thereof requested for referendum, submitted to a vote of the qualified voters of the town at the next regular town election or, in the council’s discretion, at a special election occurring before the next regular election. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question, except that an emergency ordinance or the part thereof requested for referendum, shall continue in effect for sixty days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has not been submitted to the qualified voters within sixty days following receipt of the petition, then the operation of the ordinance, or the part thereof requested for referendum, shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance, or part thereof, disapproved by the voters shall stand repealed. The provisions of this section shall not apply to any ordinance adopting a budget, making appropriations, or levying property taxes or special benefit assessments. (Mont. Co. Code 1965, § 59–11; Res. R–4–95, 12–26–95.)

Section 83–11A. Recall of elected officials.

The mayor or any council member may be dismissed from office by the qualified voters of the town in accordance with the procedure set forth in the following subsections.

(a) A petition seeking the recall of the mayor or any town council member shall state the reasons for the recall and must be signed by not less than twenty percent of the registered voters of the town. The petition shall be addressed to the town council and filed with the clerk–treasurer.

(b) The clerk–treasurer shall immediately notify the chairman of the board of supervisors of elections of the filing of a petition for recall, and shall deliver the petition to the board. The board shall, within 14 days of the filing of the petition, ascertain whether the petition is signed by the requisite number of voters, and shall attach to the petition a certificate showing the results of its examination. If the board finds the petition to be sufficient, the clerk–treasurer shall submit the petition to the council for action at its next regularly–scheduled meeting, if such meeting is scheduled within fifteen days of the date of certification. If the next regularly–scheduled council meeting is scheduled for sixteen or more days from the date of certification, the clerk–treasurer shall schedule a special town council meeting to be held within fifteen days of the date of certification.

(c) Upon receipt of a properly–certified petition, the council shall order a special election to be held on a date not more than sixty days from the date of the certification by the board of supervisors of elections; provided, however, that if any town election is scheduled within ninety days of the date of the board’s certification, the council, at its option, may order that the recall vote be included on the general election ballot; provided, further, that if the term of the elected official who is the subject of a recall petition expires within ninety days of the date of the certification by the board, no recall election shall be held.

(d) In its discretion, the council may hold a hearing on the recall petition, such hearing to take place not less than fifteen days before the election.

(e) The recall election ballot shall read: “Shall (name of official) be continued in the office of (title)?” Following this question shall be the words “Yes” and “No” on separate lines, with a space to the right of each, in which the voter shall indicate a vote for or against recall. The question of recall shall be decided by a simple majority of votes cast.

(f) Within not more than twenty–four hours after the closing of the polls, the board of supervisors of elections shall determine the vote cast on the recall question and shall certify the results of the election to the clerk–treasurer of the town who shall record the results in the minutes of the council.

(g) Any person whose recall is sought shall continue in office pending certification of the election results by the board of supervisors of elections to the clerk–treasurer. The official’s term of office shall terminate upon receipt by the clerk–treasurer of the board’s certifications that the official has been recalled.

(h) No recall petition shall be filed against any person until that person shall have been in office for at least three months, nor shall any recall petition deal with more than one public official.

(i) Any vacancy created by the recall of an elected official shall be filled in the manner prescribed in section 83–34 of this charter. (Res. R–7–88, 12–27–88.)

Section 83–12. File of ordinances.

Ordinances shall be permanently filed by the clerk–treasurer and shall be reasonably available for public inspection. (Mont. Co. Code 1965, § 59–12.)

ARTICLE III

The Mayor

Section 83–13. Selection and term.

The mayor shall be elected as hereinafter provided and shall hold office for a term of two years or until his successor takes office. The regular term of the mayor shall commence on the first Monday following his election. The mayor holding office at the time this Charter becomes effective shall continue to hold office for the term for which he was elected and until his successor takes office under the provisions of this Charter. (Mont. Co. Code 1965, § 59–13.)

Section 83–14. Qualifications.

The mayor shall (1) be a citizen of the United States, (2) have resided in the town for at least eighteen months immediately preceding his election, and (3) be a qualified voter of the Town of Somerset and of the State of Maryland. (Mont. Co. Code 1965, § 59–14; Reso. R–5–79, 7–24–79.)

Section 83–15. Salary.

The mayor shall receive no salary unless the council by ordinance provides for such a salary in a specified amount. Any ordinance providing for such a salary or making a change therein shall apply only to the terms of mayors elected after such ordinance has become effective. (Mont. Co. Code 1965, § 59–15.)

Section 83–16. Powers and duties.

(a) The mayor shall see that the ordinances, resolutions, rules, and regulations of the town are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the town government.

(b) The mayor, with the approval of the council, shall appoint the nonelective officers of the town government as established by this Charter or by ordinance. All such officers, except the clerk-treasurer and town attorney, shall serve at the pleasure of the mayor. All other employees of the town government shall be appointed and removed by the mayor.

(c) The mayor each year shall report to the council the condition of town affairs and make such recommendations as he deems proper for the public good and the welfare of the town.

(d) The mayor shall have the power to veto ordinances, resolutions, rules, and regulations passed by the council, as provided in section 83-10 of this Charter.

(e) The mayor shall have complete supervision over the financial administration of the town government. He shall prepare or have prepared annually a budget and submit it to the council. He shall supervise the administration of the budget as adopted by the council. He shall supervise the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.

(f) The mayor shall have such other powers and perform such other duties as may be prescribed by this Charter or as may be required of him by the council, not inconsistent with this Charter.

(g) In the absence or incapacity of the Mayor, the Vice President of the Council shall act as Mayor and may exercise all the powers of the office of Mayor. In the absence or incapacity of both the Mayor and the Vice President of the Council, the Council shall have the power to elect from among its members a Mayor pro-tem who shall act as Mayor and may exercise all the powers of the office of Mayor. (Mont. Co. Code 1965, § 59-16, R-3-79, 4-24-72.)

ARTICLE IV

The Powers of the Town

Section 83-17. General powers.

The town shall have the power to adopt all such ordinances, resolutions, rules, and regulations not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the town and visitors thereto and sojourners therein. (Mont. Co. Code 1965, § 59-17.)

Section 83–18. Specific powers.

The town shall have, in addition to its general powers, the power to adopt ordinances, resolutions, regulations, and rules not contrary to the Constitution and laws of the State of Maryland, for the following specific purposes:

(1) *Advertisement [Advertisement] and publication.* To provide for advertisement and publication for the purposes of the town, for printing and publishing statements as to the business of the town, and for publishing a Somerset Town Journal.

(2) *Aisles.* To regulate and prevent the obstruction of aisles in public halls, churches, and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

(3) *Amusements.* To provide in the interest of the public welfare for licensing, regulating, or restraining theatrical or other public amusements.

(4) *Appropriations.* To appropriate town moneys for any purpose within the powers of the town.

(5) *Auctioneers.* To regulate the sale of all kinds of property at auction within the town and to license auctioneers.

(6) *Band.* To establish a town band, symphony orchestra, or other musical organization, and to regulate by ordinance the conduct and policies thereof.

(7) *Billboards and signs.* To license, tax, regulate, restrain, or prohibit the erection, placing, or maintenance of billboards, signs, bills, and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the town.

(8) *Bridges.* To erect and maintain bridges.

(9) *Buildings, structures and improvements.* To make reasonable regulations in regard to buildings, structures, and other improvements to be erected, constructed, or reconstructed in the town, and to grant building permits for the same; to formulate a building code and a plumbing, heating, and electrical code, to appoint inspectors, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings, structures, and other improvements, and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings, structures, and other improvements be made safe or be taken down or removed.

(10) *Cemeteries.* To regulate and prohibit the interment of bodies within the town and to regulate cemeteries.

(11) *Codification.* To provide for the codification of all ordinances which have been or may hereafter be passed.

(12) *Community services.* To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the town.

(13) *Cooperation with other bodies.* To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental or proprietary functions.

(14) *Curfew.* To prohibit the youth of the town from being in the streets, lanes, alleys, or public places at unreasonable hours of the night.

(15) *Dangerous conditions.* To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(16) *Departments.* To create, change, and abolish nonelective offices, departments, or agencies of the town government, including the nonelective offices, departments, and agencies established by this Charter; and to assign additional functions or duties to offices, departments, or agencies.

(17) *Dogs and cats.* To regulate, license, or prohibit the keeping or presence of dogs or cats in the town, and to provide for their disposition or removal from the town.

(18) *Elevators.* To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(19) *Expenses of officials.* To provide by resolution for reimbursing the mayor, councilmen, and other officials of the town for reasonable expenses incurred, and compensating them for time lost from their regular employment, in carrying out the necessary business of the town.

(20) *Explosives and dangerous weapons.* To regulate or prevent the storage of gunpowder, oil, or any other explosive or combustible matter; to regulate or prevent the use or possession of firearms, air guns or other dangerous weapons, projectiles, fireworks, bonfires, explosives, or any other similar things which may endanger persons or property.

(21) *Filth.* To compel the owners or occupants of any premises or buildings in the town, when the same have become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.

(22) *Finances.* To levy, assess, and collect ad valorem property taxes and special benefit assessments; to expend town funds for any public purpose; to have general management and control of the finances of the town; and to borrow necessary funds for any public purpose.

(23) *Fire.* To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire-hazard regulations are met; to install and maintain fire plugs where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the town.

(24) *Food.* To inspect and require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

(25) *Franchises.* To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies and any others which may be deemed advantageous and beneficial to the town, subject, however, to the limitations and provisions of the Constitution and laws of the State of Maryland. No franchise shall be granted for a longer period than fifty years.

(26) *Gambling.* To restrain and prohibit gambling.

(27) *Garbage.* To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes, and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal; to make contracts for the removal of garbage and rubbish.

(28) *Grants-in-aid.* To accept gifts and grants of federal or state funds from the federal or state governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(29) *Hawkers.* To license, tax, regulate, suppress, and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers, and all other persons selling any articles or services on the streets of the town, and to revoke such licenses for cause.

(30) *Health.* To protect and preserve the health of the town and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the town; to establish quarantine regulations, and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health; provided, that nothing herein shall be construed to affect in any manner any of the powers and duties of the state board of health, the county board of health, or any public, general or local law relating to the subject of health.

(31) *House numbers.* To regulate the numbering of houses and lots and to compel owners to renumber the same or in default thereof to authorize and require the same to be done

by the town at the owner's expense, such expense to constitute a lien upon the property collectible as tax moneys.

(32) *Insurance.* To obtain hazard and liability insurance of such kinds and in such amounts as the council may determine.

(33) *Jail.* To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the town or to use the county jail for such purpose.

(34) *Land and building regulations.* To provide for the preparation and revision of a plat of said town upon which shall be shown all streets, roads, and public ways, whether projected or already laid out, and by which all lots and real property in said town may be thereafter described, said plat to be prepared and recorded in plat books in the office of the clerk of the circuit court for Montgomery County and of the county surveyor of said county; to control the subdivision or resubdivision of all land and real property within the corporate limits of said town and to make reasonable regulations in regard to buildings to be erected in said town, and to grant permits for same.

(35) *Licenses.* Subject to any restrictions imposed by the laws of the State of Maryland, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(36) *Liens.* To provide that any valid charges, taxes or assessments made against any real property within the town shall be liens upon such property, to be collected as municipal taxes are collected.

(37) *Lights.* To provide for the lighting of the town.

(38) *Livestock.* To regulate or prohibit the keeping of cattle, horses, swine, fowl, sheep, goats, dogs, or other animals; to authorize the impounding, keeping, sale, and redemption of such animals when found in violation of such regulations or prohibitions.

(39) *Maintenance of private property.* To require all owners or occupants to maintain their properties in decent, clean, and presentable condition.

(40) *Markets.* To obtain by lease or rent, own, construct, purchase, operate, and maintain public markets within the town.

(41) *Minor privileges.* To regulate or prevent the use of public ways, sidewalks, and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements, and display of goods, wares, and merchandise.

(42) *Noise.* To regulate or prohibit unreasonable noises.

(43) *Nuisances.* To prevent or abate all nuisances in the town which are so defined at common law, by this Charter, or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health. In this connection the town may regulate, prohibit, control the location of, or require the removal from the town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitation.

(44) *Obstructions.* To remove all nuisances and obstructions from the streets, lanes, and alleys, and from any lots adjoining thereto, or any other places within the limits of the town.

(45) *Parking facilities.* To license and regulate, and to establish, obtain by purchase, condemnation, or lease, own, construct, operate, and maintain parking lots and other facilities for off-street parking.

(46) *Parking meters.* To install parking meters on the streets and public places of the town in such places as the council shall determine, and to prescribe rates and provisions for the use thereof; except, that the installation of parking meters on any street or road maintained by the state roads commission of Maryland as part of the state road system must first be approved by the commission.

(47) *Parks and recreation.* To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the town.

(48) *Planning and zoning.* To exercise all powers of planning, zoning, and the control of subdivision or resubdivision which are not contrary to the Constitution and laws of the State of Maryland.

(49) *Police force and marshals.* To establish, operate, and maintain a police force or appoint a town marshal and deputy marshal. All town policemen, the marshal and deputy marshals shall, within the town, have the powers and authority of constables in this state.

(50) *Police powers.* To prohibit, suppress, and punish within the town all vice, gambling, and games of chance; prostitution and solicitation therefore and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity, and drunkenness. To enforce all ordinances relating to disorderly conduct and the suppression of nuisances equally within the limits of the town and beyond those limits for one-half mile, or for so much of this distance as does not conflict with the powers of another municipal corporation.

(51) *Property.* To acquire by purchase, condemnation, gift, bequest, devise, lease, or otherwise real, personal, or mixed property, within or without the corporate limits of the town,

for any public purposes; to erect and equip buildings, and structures and make other improvements thereon for the benefit of the town and its inhabitants; to regulate their use; to convey or lease any property when no longer needed for the public use, after having given at least twenty days' public notice to the proposed conveyance or lease; and to control, protect and maintain public buildings, grounds, and property of the town.

(52) *Quarantine.* To establish quarantine regulations in the interest of the public health.

(53) *Regulations.* To adopt and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, heating, electrical, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.

(54) *Rubbish.* To regulate or prevent the throwing or depositing of rubbish, lawn, garden, or tree refuse, sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, or other unwholesome materials into any public way or onto any public or private property in the town.

(55) *Sidewalks.* To regulate the use of sidewalks and all structures in, under, or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from ice, snow, dirt, and other obstructions.

(56) *Taxicabs.* To license, tax, and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters, and expressmen, and all other persons pursuing like occupations.

(57) *Trees, shrubs and grass.* To protect, enhance, and maintain the natural beauty of the town property, and to conserve the trees, shrubs, and grass on the public ways.

(58) *Vehicles.* To regulate the use, operation, speed, weight, direction of travel, parking, or keeping of vehicles of every kind, including but not limited to automobiles, trucks, tractors, trailers, wagons, motorcycles, scooters, and bicycles, to the extent that such regulation by the town is not contrary to the Constitution and laws of the State of Maryland.

(59) *Voting machines.* To purchase, lease, borrow, install, and maintain, voting machines for use in town elections.

The enumeration of powers in this section and in section 83–17 of this Charter is not to be construed as limiting the powers of the town to the several subjects mentioned. (Mont. Co. Code 1965, § 59–18.)

Section 83–19. Exercise of powers.

For the purpose of carrying out the powers granted to the town in this Charter, the council may adopt all necessary ordinances, resolutions, rules, or regulations. All the powers of the town shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed,

then in such manner as may be prescribed by ordinance, resolution, rule, or regulation. (Mont. Co. Code 1965, § 59–19.)

Section 83–20. Enforcement.

(a) To ensure the observance of the ordinances, resolutions, rules, and regulations of the town, the council shall have the power to provide that violation thereof shall be a misdemeanor, and shall have the power to affix thereto such penalties as may be authorized by state law. The council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

(b) (1) As an alternative to declaring violation of a particular ordinance, resolution, rule, or regulation of the town to be a misdemeanor, the council shall have the power to provide that such violation shall be a municipal infraction, unless state law expressly prohibits said violation from being treated as a municipal infraction.

(2) A municipal infraction is a civil offense. An adjudication that a person has committed a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities imposed by a criminal conviction.

(3) A fine not to exceed the maximum amount established by state law may be imposed for each commission of a municipal infraction. Each day a violation continues shall constitute a separate offense. (Mont. Co. Code 1965, § 59–20; Reso. R–3–80, 6–24–80; Res. No. R–3–87, 7–21–87; Res. No. R–4–87, 7–21–87; Res. No. 1–05, 6–22–05.)

ARTICLE V

Registration, Nominations and Elections

Section 83–21. Voters.

Every person who (1) is at least eighteen years of age, (2) has resided within the corporate limits of the town for fourteen days next preceding any election, (3) is a citizen of the United States of America or an alien legally authorized to reside in the United States, and (4) is registered in accordance with the provisions of this Charter, shall be a qualified voter of the town. Every qualified voter of the town shall be entitled to vote at any or all town elections. (Mont. Co. Code 1965, § 59–21; Reso. 2–2–76, § 1; Res. R–3–93, 7–28–93.)

Section 83–22. Board of supervisors of elections — Membership; appointment, term of office, qualifications and compensation of members; chair; filling vacancies.

(a) There shall be a board of supervisors of elections, consisting of five members who shall be appointed by the mayor, with the approval of the council. Normal terms shall be three years. Terms of the three members serving on the first Monday in January 2006 shall expire, respectively, on December 31, 2006, 2007 and 2008. The fourth member shall serve through

December 2008, and the fifth member shall serve through December 2007. In December 2006 and every three years thereafter, one member shall be appointed for a three-year term beginning on the following January 1. In December 2007 and 2008 and every three years thereafter, two members shall be appointed for three-year terms beginning on the following January 1.

(b) Members of the board of supervisors of elections shall be qualified voters of the town and shall not hold or be candidates for any elective office during their tenure of office. The board shall appoint one of its members as chair. Vacancies on the board shall be filled by the mayor, with approval of the council, for the remainder of the unexpired term. Members of the board of supervisors of elections shall receive no compensation for their services. (Mont. Co. Code 1965, § 59-22; Reso. 4-14-84, Char. Am. 5-84, 12-25-84; Res. 1-06, 2-22-06.)

Section 83-23. Same — Removal of members.

Any member of the board of supervisors of elections may be removed for good cause by the mayor, with the approval of the council. Before removal, the member of the board of supervisors of elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the council if he so requests within ten days after receiving the written copy of the charges against him. (Mont. Co. Code 1965, § 59-23.)

Section 83-24. Same — Duties.

The board of supervisors of elections shall be in charge of the registration of voters, nominations, and all town elections. The board may appoint election clerks or other employees, whose compensation, if any, shall be fixed by the council, to assist it in any of its duties. (Mont. Co. Code 1965, § 59-24.)

Section 83-25. Notice of elections and registration days.

The board of supervisors of elections shall give at least two weeks' notice of every registration day and every election by publication as provided in section 83-87 of this Charter. (Mont. Co. Code 1965, § 59-25.)

Section 83-26. Registration of voters.

There shall be a registration on the first Monday in March in every year, for qualified persons not previously registered to vote. There shall also be voter registration by mail all year except for fourteen days prior to an election. If necessary for the performance of registration or the convenience of citizens of the town, the council may designate additional days for registration in person. Provided also, pursuant to Maryland Code Annotated, Article 33, Section 3-2(d) (1990), as amended, a resident of the town registered to vote with the Montgomery County Board of Elections shall be deemed registered for elections in the town. The Council is authorized to coordinate and perform such actions, including but not limited to appointing the Board of Supervisors of Elections or other agent(s) as liaison to act in its place, to effectuate the provisions of Maryland Code Annotated, Article 33, Section 3-2(d) (1990), as amended. Registration shall be permanent, and no person shall be entitled to vote in town elections unless

he is registered. It shall be the duty of the board of supervisors of elections to keep the registration list up to date by striking from the lists persons known to have died or to have moved out of the town. The council is hereby authorized and directed, by ordinance, to adopt and enforce any provisions necessary to establish and maintain a system of permanent registration and to provide for a reregistration when necessary. (Mont. Co. Code 1965, § 59-26; Reso. 2-2-76, § 1; Reso. R-4-85, 5-21-85; Res. R-3-93, 7-28-93.)

Section 83-27. Appeals from action of board of supervisors of elections.

If any person shall feel aggrieved by the action of the board of supervisors of elections in refusing to register or in striking off the name of any person, or by any other action, such person may appeal to the council. Any decision or action of the council upon such appeals may be appealed to the circuit court for Montgomery County within thirty days of the decision or action of the council. (Mont. Co. Code 1965, § 59-27.)

Section 83-28. Nominations.

Candidates at the regular elections shall be nominated at a town meeting to be held on a date at least four (4) weeks prior to the date set for the municipal election. The specific date shall be designated by the Town Council by Resolution no later than January 15th of the year in which the election is to take place. Additional candidates may be nominated after such meetings by written petition signed by at least twenty voters and filed with the clerk-treasurer not less than twenty-one days before the election. The names of nominees who meet the qualifications for election and who accept the said nominations, all as determined by the board of supervisors of elections, together with such other information as is called for by the council, shall be published not less than fourteen days before the election as provided in section 83-87 of this Charter. (Mont. Co. Code 1965, § 59-28; Reso. R-5-85, 5-21-85; Res. No. R-11-87, 12-22-87.)

Section 83-29. Election of mayor and councilmen.

In every even-numbered year, the qualified voters of the town shall elect one person as mayor and two persons as councilmembers to serve for terms of two years, and in every odd numbered year shall elect three persons as councilmembers to serve for terms of two years. The election shall be on one of the following dates: March 20th through April 7th, excluding Saturdays, Sundays, and holidays. The specific date shall be designated by the Town Council by resolution no later than January 15th of the year in which the election is to take place. (Mont. Co. Code 1965, § 59-29; Reso. R-6-85, 5-21-85; Res. No. R-10-87, 11-24-87.)

Section 83-30. Conduct of elections.

(a) It shall be the duty of the board of supervisors of elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots or voting machines. The ballots or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The board of

supervisors of elections shall keep the polls open from 6:00 P.M. to 9:00 P.M. on election days or for longer hours if the council requires it.

(b) Qualified voters who are incapacitated or who will be absent may receive ballots from the clerk–treasurer at any time within fourteen days prior to an election. The ballots of such persons shall be validated on the reverse side by the signature of the clerk–treasurer, and shall be counted if returned to him or the board of supervisors of elections before the close of the polls. (Mont. Co. Code 1965, § 59–30.)

Section 83–31. Special elections.

All special town elections shall be conducted by the board of supervisors of elections in the same manner, as far as practicable, as regular town elections. (Mont. Co. Code 1965, § 59–31.)

Section 83–32. Vote count.

Within not more than twenty–four hours after the closing of the polls, the board of supervisors of elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the clerk–treasurer of the town who shall record the results in the minutes of the council. The candidate for mayor with the highest number of votes shall be declared elected as mayor. The candidates for council members with the highest number of votes shall be declared elected as council members. In the event of a tie vote in any election or on any question, there shall be a special election three weeks later to break the tie. (Mont. Co. Code 1965, § 59–32; Reso. 2–2–76, § 1.)

Section 83–33. Preservation of ballots.

All ballots used in any town election shall be preserved for at least three months from the date of the election. (Mont. Co. Code 1965, § 59–33.)

Section 83–34. Vacancies.

(a) Whenever any vacancy exists in the office of mayor or on the council by reason of a recall pursuant to section 83–11A of this charter, the council shall order a special election to fill such vacancy for the unexpired term pursuant to section 83–31 of this charter; the special election shall be held on a date not less than 30 days but not more than 45 days from of the certification of election results by the board of supervisors of elections (See Note (4)); provided, however, that if any town election is scheduled within ninety days from the date of certification of the recall election results, the council may, in its discretion, order that the vacancy be filled at the general election.

(b) In case of a vacancy in the office of mayor or on the council for any reason other than recall, including failure of a newly elected mayor or councilman to take office, the council shall, in its discretion, either elect some qualified person or call a special election to fill such a

vacancy for the unexpired term. The results of any such vote or election shall be recorded in the minutes of the council. (Mont. Co. Code 1965, § 59–34; Res. R–9–88, 2–8–89.)

Section 83–35. Women.

Women shall have equal privileges with men in all town functions. Whenever the masculine gender has been used in this Charter, it shall be construed to include the feminine gender. (Mont. Co. Code 1965, § 59–35.)

Section 83–36. Regulation and control.

The council shall have the power to provide by resolution in every respect not covered by the provisions of this Charter for the conduct of registration, nomination, and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. (Mont. Co. Code 1965, § 59–36.)

Section 83–37. Penalties.

Any person who (1) fails to perform any duty required of him under the provisions of this article or any ordinances passed thereunder, (2) in any manner wilfully or corruptly violates any of the provisions of this article or any resolutions passed thereunder, or (3) wilfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or town election, shall be deemed guilty of a misdemeanor and shall be subject to the maximum penalties authorized by Section 83–20 of this Charter. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment. (Mont. Co. Code 1965, § 59–37; Reso. R–3–80, 6–24–80.)

ARTICLE VI

Finance

Section 83–38. Clerk–treasurer.

There shall be a clerk–treasurer appointed by the mayor, with the approval of the council, at the last regular council meeting in each fiscal year to serve for the next ensuing fiscal year. The clerk–treasurer may be removed at any time by the mayor, with the approval of the council, and a successor be appointed by the mayor, with the approval of the council, to serve for the balance of the fiscal year. The compensation of the clerk–treasurer shall be determined by resolution of the council. The clerk–treasurer shall be the chief financial officer of the town. The financial powers of the town, except as otherwise provided by this Charter, shall be exercised by the clerk–treasurer under the direct supervision of the mayor. (Mont. Co. Code 1965, § 59–38.)

Section 83–39. Powers and duties of clerk–treasurer.

Under the supervision of the mayor, the clerk–treasurer shall have authority and shall be required to:

- (1) Prepare under the direction of the mayor an annual budget to be submitted by the mayor to the council.
- (2) Supervise and be responsible for the disbursement of all money and have control over all expenditures to assure that budget appropriations are not exceeded.
- (3) Maintain a general accounting system for the town in such form as the council may require, not contrary to state law.
- (4) Submit at the end of each fiscal year, and at such other times as the council may require, a complete financial report to the council through the mayor.
- (5) Ascertain that all taxable property within the town is assessed for taxation.
- (6) Collect all taxes, special benefit assessments, license fees, liens, and all other revenues (including utility revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.
- (7) Have custody of all public money, belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.
- (8) Do such other things in relation to the fiscal or financial affairs of the town as the mayor or the council may require or as may be required elsewhere in this Charter. (Mont. Co. Code 1965, § 59–39.)

Section 83–40. Fiscal year. (See note (2))

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July and shall end on the last day of June in the following year. Such fiscal year shall constitute the tax year, the budget year, and the accounting year. (Mont. Co. Code 1965, § 59–40.)

Section 83–41. Budget.

(a) The mayor, on such date as the council by resolution shall determine, but at least twenty days before the beginning of any fiscal year shall submit a budget to the council. The budget shall provide a financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures (including an allowance for contingencies) for the coming year. The total of the proposed expenditures shall not exceed the total of the

anticipated revenues. The budget shall be a public record in the office of the clerk–treasurer and shall be reasonably available for public inspection.

(b) At the regular March meeting of the Mayor and Council, the Mayor shall submit a five–year fiscal plan reflecting an analysis of the sources and uses of available funds. The five–year plan shall not be subject to adoption as provided in Sec. 83–42, but (i) its development and content shall be open to recommendations by the Council and shall be subject to public hearing; (ii) shall be a public record reasonably available for public inspection; and (iii) shall be given due and proper consideration and weight in the development of annual budgets. (Mont. Co. Code 1965, § 59–41; 8–2–76; Reso. R–3–78, 10–25–78; Res. R–4–88, 6–21–88.)

Section 83–42. Budget adoption.

Before adopting the budget the council shall hold a public hearing thereon after at least ten days’ notice published as provided in section 83–87 of this Charter, which notice shall include the proposed budget or a summary thereof. The council may insert new items or may increase or decrease the items of the budget so long as the proposed expenditures do not exceed the anticipated revenues. The budget shall be prepared and adopted in the form of an ordinance before the beginning of the fiscal year. A favorable vote of at least three members of the council shall be necessary for adoption. (Mont. Co. Code 1965, § 59–42.)

Section 83–43. Appropriations.

No public money may be expended without having been appropriated by the council. From the effective date of the budget the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. Supplemental appropriations may be made by ordinance adopted by at least three members of the council so long as such supplemental appropriations do not increase the total appropriations for the fiscal year beyond the total anticipated revenues for the fiscal year as estimated at the time such supplemental appropriations are made. (Mont. Co. Code 1965, § 59–43.)

Section 83–44. Transfer of funds.

Transfer of funds between major appropriations for different purposes may be made at any time by the mayor, subject to approval by at least three members of the council before becoming effective. (Mont. Co. Code 1965, § 59–44.)

Section 83–45. Over–expenditure forbidden.

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its term involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital acquisitions or improvements to be financed in whole or in part by the issuance of bonds or bond anticipation

notes, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made when such contract is permitted by law. (Mont. Co. Code 1965, § 59-45.)

Section 83-46. Lapse of appropriations and treatment of surplus.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year. (Mont. Co. Code 1965, § 59-46.)

Section 83-47. Deposit or investment of funds.

All money of the town, except a petty cash fund of such amount as the council by resolution provides, shall be deposited with such banks or other depositories or shall be invested, as the council by resolution determines, in accordance with the laws of the State of Maryland. All checks or other evidences of withdrawal shall be issued and signed or investments be liquidated as the council by resolution provides. (Mont. Co. Code 1965, § 59-47.)

Section 83-48. Taxable property and assessments.

All real property and all tangible personal property (other than personal and household goods, personal office fixtures, and personal automobiles) within the corporate limits of the town shall be subject to taxation for town purposes, and the assessment used, when applicable, shall be the same as that for state and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation under the laws of the State of Maryland. (Mont. Co. Code 1965, § 59-48.)

Section 83-49. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year. (Mont. Co. Code 1965, § 59-49.)

Section 83-50. Notice of tax levy.

Immediately after the levy is made by the council in each year, the clerk-treasurer shall give notice of the making of the levy by publication as provided in section 83-87 of this Charter. He shall make out and mail or deliver in person to each taxpayer or his agent at his last known address a bill or account of the taxes due from him. This bill or account shall contain a statement of the amounts of real property and tangible personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due, and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this Charter all taxes levied on his property. (Mont. Co. Code 1965, § 59-50.)

Section 83-51. When taxes are overdue.

The taxes provided for in section 83-49 of this Charter shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the rate of one-half of one per centum for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in section 83-52 of this Charter. (Mont. Co. Code 1965, § 59-51.)

Section 83-52. Sale of tax delinquent property.

A list of all property on which the town taxes have not been paid and which are in arrears as provided by section 83-51 of this Charter shall be turned over by the clerk-treasurer to the official of the county responsible for the sale of tax delinquent property as provided in state law. All property listed thereon shall if necessary be sold for taxes by this county official, in the manner prescribed by state law. (See note (3)) (Mont. Co. Code 1965, § 59-52.)

Section 83-53. Fees.

All fees received by an officer or employee of the town government in his official capacity shall belong to the town government and be accounted for to the town. (Mont. Co. Code 1965, § 59-53.)

Section 83-54. Fines, forfeitures and penalties.

All fines, forfeitures and penalties imposed pursuant to any ordinance, resolution, rule or regulation of the town may be recovered in the corporate name of the town before a trial magistrate, as small debts are recovered, and the money arising therefrom shall be paid to the town for its use. (Mont. Co. Code 1965, § 59-54.)

Section 83-55. Audit.

The financial books and accounts of the town shall be audited annually by an auditing committee of three persons appointed by the council. Such committee shall render its report to the mayor and council within ninety days after the end of the fiscal year. (Mont. Co. Code 1965, § 59-55.)

Section 83-56. Tax anticipation notes.

The town may at any time pursuant to ordinance borrow funds and issue tax anticipation notes as evidence of such borrowing, by any of the applicable methods and procedures authorized from time to time by the laws of Maryland and subject to the applicable limitations set forth therein; provided, however, that if the ordinance or ordinances authorizing the issuance of said tax anticipation notes shall so specify, said tax anticipation notes may be sold at private sale without advertisement or publication of notice of sale or solicitation of competitive bids. (Mont. Co. Code 1965, § 59-56; Reso. R-8-81, 9-8-81.)

Section 83-57. Bonds.

The town may at any time pursuant to ordinance borrow funds and issue bonds as evidence of such borrowing, by any of the applicable methods and procedures authorized from time to time by the laws of Maryland and subject to the applicable limitations set forth therein; provided, however, that if the ordinance or ordinances authorizing the issuance of said bonds shall so specify, said bonds may be sold at private sale without advertisement or publication of sale or solicitation of competitive bids. (Mont. Co. Code 1965, § 59-57; Reso. R-8-81, 9-8-81.)

Section 83-58. Bond anticipation notes.

In anticipation of the issuance of bonds which have theretofore been authorized by ordinance the town may pursuant to resolution borrow funds and issue or re-issue bond anticipation notes as evidence of such borrowing, by any of the methods and procedures authorized from time to time by the laws of Maryland and subject to the applicable limitations set forth therein; provided, however, that if the resolution or resolutions authorizing the issuance of said bond anticipation notes shall so specify, said bond anticipation notes may be sold at private sale without advertisement or publication of notice of sale or solicitation of competitive bids. (Mont. Co. Code 1965, § 59-58; Reso. R-8-81, 9-8-81.)

Section 83-58A. Loans.

The town may at any time pursuant to ordinance borrow funds by commercial private loan on terms and in such amounts determined by the Town Council to be advantageous or desirable to the town and to evidence such borrowing by executing a loan promissory note containing such terms and amounts; provided, however, that any such funds so borrowed by be used only for a public purpose as set forth in Article IV; and further provided that if the ordinance or ordinances authorizing such loan shall so specify, said loan may be consummated without advertisement or publication of notice of such loan or solicitation of competitive bids. (Res. R-3-92, 10-29-92.)

Section 83-59. Payment of indebtedness.

The power and obligation of the town to pay any and all bonds, notes, or other evidences of indebtedness issued by it under the authority of this Charter or state law shall be unlimited and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness, hereafter issued under the authority of this Charter or state law, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance or resolution authorizing their issuance. (Mont. Co. Code 1965, § 59-59.)

Section 83–60. Purchasing and contracts.

All purchases and contracts for the town government shall be made by the clerk–treasurer, but purchases or contracts involving more than five hundred dollars, or such greater amount as the council may by resolution specify, shall require the prior approval of the council. The council may adopt regulations regarding the use of competitive bidding and contracts for town purchases and contracts, including the power to reject any or all bids. The town at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All contracts may be protected by such bonds, penalties, and conditions as the town may require. (Mont. Co. Code 1965, § 59–60.)

ARTICLE VII

Personnel

Section 83–61. Clerk to the council.

The clerk–treasurer shall serve as clerk to the council. He shall attend every meeting of the council and keep a full and accurate record of the proceedings of the council. He shall keep such other records and perform such other duties as may be required by this Charter or the council. (Mont. Co. Code 1965, § 59–61.)

Section 83–62. Town attorney.

The mayor, with approval of the council, may appoint a town attorney. The town attorney may be removed at any time by the mayor, with the approval of the council. The town attorney shall be a member of the bar of the Maryland Court of Appeals. The town attorney shall be the legal advisor of the town and shall perform such duties in this connection as may be required by the council or the mayor. His compensation shall be determined by resolution of the council. The mayor, with the approval of the council, shall have the power to employ such legal consultants as he deems necessary from time to time. (Mont. Co. Code 1965, § 59–62.)

Section 83–63. Authority to employ personnel.

The town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other state law and operate the town government. (Mont. Co. Code 1965, § 59–63.)

Section 83–64. Retirement system.

The town shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer’s share of the cost of any such retirement or pension system out of the general funds of the town. (Mont. Co. Code 1965, § 59–64.)

Section 83–65. Compensation of employees.

The compensation of all officers and employees of the town except the mayor shall be set from time to time by resolution of the council. (Mont. Co. Code 1965, § 59–65.)

Section 83–66. Employee benefit programs.

The town shall have the power to do all things necessary to provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and to expend public moneys of the town for such programs. (Mont. Co. Code 1965, § 59–66.)

ARTICLE VIII

Public Ways and Utilities

Section 83–67. Definition of “public ways.”

The term “public ways,” as used in this Charter, shall include all streets, avenues, roads, highways, public thoroughfares, lanes, alleys, rights-of-way, and sidewalks, and all areas dedicated in connection therewith. (Mont. Co. Code 1965, § 59–67.)

Section 83–68. Control of public ways.

(a) The town shall have control of all public ways in the town except such as may be under the jurisdiction of the Maryland State Roads Commission. Subject to the laws of the State of Maryland and this Charter, the town may do whatever it deems necessary to establish, operate, maintain in good condition, and regulate the use of the public ways of the town.

(b) The town may require that a permit be obtained from it and a reasonable deposit to safeguard the town be made before any cuts or openings are made in any street, curb, or sidewalk. (Mont. Co. Code 1965, § 59–68.)

Section 83–69. Powers of town as to public ways generally.

The town shall have the power:

(1) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any town public way or part thereof, bridges, curbs, and gutters.

(2) To grade, lay out, construct, open, extend, and make new town public ways.

(3) To grade, straighten, widen, alter, improve, or close up any existing town public way or part thereof.

(4) To pave, surface, repave, or resurface any town public way or part thereof.

(5) To install, construct, reconstruct, repair, and maintain curbs and gutters along any town public way or part thereof.

(6) To construct, reconstruct, maintain, and repair bridges.

(7) To name town public ways.

(8) To have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof. (Mont. Co. Code 1965, § 59–69.)

Section 83–70. Powers of town as to sidewalks.

The town shall have the power:

(1) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.

(2) To grade, lay out, construct, reconstruct, pave, repave, repair, extend, or otherwise alter sidewalks on town property along any public way or part thereof.

(3) To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, dirt, and other obstructions.

(4) To require and order the owner of all property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law. (Mont. Co. Code 1965, § 59–70.)

Section 83–71. Powers of town as to storm water drainage system.

The town shall have the power:

(1) To construct, operate, and maintain a storm water drainage system including storm water sewers.

(2) To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above system.

(3) To have surveys, plans, specifications, and estimates made for any of the above systems or parts thereof or the extension thereof.

(4) To do all things it deems necessary for the efficient operation and maintenance of the above system. (Mont. Co. Code 1965, § 59–71.)

Section 83–72. Placing structures in public ways.

Any public agency, public service corporation, company, or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe, pole, wires, or other structure in the public ways of the town, shall submit plans to the town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company, or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe, pole, wires or other structure interferes with the public ways or sidewalks of the town or with the operation of the water, sewerage, or storm water systems, the town may order it removed. (Mont. Co. Code 1965, § 59–72.)

Section 83–73. Obstructions.

Any public agency, public service corporation, company, or individual having mains, conduits, pipes, poles, wires or other structures, in, on, or over any public way in the town or in the county which impede the establishment, construction, or operation of any public ways or sidewalks of the town or any water, sewer, or storm water drainage system shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the provisions of this section, the town may use its condemnation powers provided in section 83–82 of this Charter. (Mont. Co. Code 1965, § 59–73.)

Section 83–74. Entering on county public ways.

The town may enter upon or do construction in, on, or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the storm water drainage system provided for in this Charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before. (Mont. Co. Code 1965, § 59–74.)

Section 83–75. Connections.

When any water main or sanitary sewer is declared ready for operation the town may require all abutting property owners after reasonable notice to connect all fixtures with the water or sewer main. The town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools [cesspools], sink drains, and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. (Mont. Co. Code 1965, § 59–75.)

Section 83–76. Private systems.

The town may provide that no water supply, sewerage, or storm water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution, or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health, and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the town. (Mont. Co. Code 1965, § 59–76.)

Section 83–77. Extensions beyond boundaries.

The town shall have the power to extend its storm water drainage system beyond the town limits. (Mont. Co. Code 1965, § 59–77.)

Section 83–78. Right of entry.

Any employee or agent of the town, while in the necessary pursuit of his official duties in regard to the storm water drainage system operated by the town, shall have the right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant, or person in possession, upon any premises and into any building in the town or in the county served by the town’s storm water drainage system. Any restraint or hindrance offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, may, by ordinance, be made a misdemeanor. (Mont. Co. Code 1965, § 59–78.)

ARTICLE IX

Special Benefit Assessments

Section 83–79. Power.

(a) The town shall have the power to levy and collect taxes in the form of special benefit assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction of a storm water drainage system, curbs, and gutters, and by the construction and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special benefit assessments. The cost of any such project may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special benefit assessments, a reasonable charge for the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project.

(b) Special benefit assessments shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by resolution of the council.

(c) The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(d) When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

(e) Special benefit assessments may be made payable in a lump sum or in annual or more frequent installments over such period of time, not to exceed ten years, and in such manner as the council may determine. The council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the council. (Mont. Co. Code 1965, § 59–79.)

Section 83–80. Procedure.

(a) Before determining to proceed with any project to be paid for in whole or in part by special benefit assessments, the council shall hold a public hearing. The clerk–treasurer shall cause notice to be given stating the nature and extent of the proposed project, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once as provided in section 83–87 of this Charter. The clerk–treasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten or not more than thirty days after the clerk–treasurer shall have completed publication and service of notice as provided in this section. Following the hearing the council, in its discretion, may by ordinance authorize the carrying out of the project.

(b) When the costs of the project are determined the council shall by ordinance levy the special benefit assessments to be paid in connection therewith.

(c) All special benefit assessments shall be billed and collected by the clerk–treasurer.

(d) All special benefit assessment installments shall be overdue six months after the date on which they become due and payable. All special benefit assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law. (Mont. Co. Code 1965, § 59–80.)

ARTICLE X

Town Property

Section 83–81. Acquisition, possession and disposal.

The town may acquire real, personal, or mixed property, within or without the corporate limits of the town, for any public purpose by purchase, condemnation, gift, bequest, devise, lease, or otherwise; and may sell, lease, or otherwise dispose of any property belonging to the town. All municipal property, funds, and franchises of every kind belonging to or in the possession of the town at the time this Charter becomes effective are vested in the town, subject to the terms and conditions thereof. (Mont. Co. Code 1965, § 59–81.)

Section 83–82. Condemnation.

The town shall have the power to condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within or without the corporate limits of the town, for any public purpose. Any activity, project, or improvement authorized by the provisions of this Charter or any applicable law of the State of Maryland shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that described in the Annotated Code of the Public General Laws of Maryland, as in force on the date of adoption of this Charter. (Mont. Co. Code 1965, § 59–82.)

Section 83–83. Town buildings, structures and improvements.

The town shall have the power to acquire, to obtain by lease or rent, to purchase, construct, equip, operate, and maintain all buildings, structures, or improvements it deems necessary for the operation of the town government, or for any other public purpose of the town. (Mont. Co. Code 1965, § 59–83.)

Section 83–84. Protection, administration and operation of town property.

The town shall have the power to do whatever may be necessary to protect town property, to keep all town property in good condition, to administer and operate it for any public purpose of the town, and to make such charges for the use of town property as the council by resolution may determine. (Mont. Co. Code 1965, § 59–84.)

ARTICLE XI

General Provisions

Section 83–85. Oath of office.

(a) Before entering upon the duties of their offices, the mayor, the councilmen, the clerk–treasurer, the members of the board of supervisors of elections, and all other persons

elected or appointed to any office of profit or trust in the town government shall take and subscribe the following oath or affirmation: "I, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of, according to the Constitution and laws of this State."

(b) The mayor shall take and subscribe this oath or affirmation before his predecessor or before the clerk–treasurer. All other persons taking and subscribing the oath shall do so before the mayor. (Mont. Co. Code 1965, § 59–85.)

Section 83–86. Official bonds.

The clerk–treasurer and such other officers or employees of the town as the council may require, shall give bond in such amount and with such surety as the council by resolution may require. The premiums of such bonds shall be paid by the town. (Mont. Co. Code 1965, § 59–86.)

Section 83–87. Publication and notices.

Except as otherwise specifically required by state law, any publication or general notice required by this Charter or by state law shall be given (1) by publication in the Somerset Town Journal, which shall be mailed to all families residing in the town and to all nonresident owners of real property, or (2) at the option of the council by publication in a newspaper having general circulation in the town. The date of mailing any issue of the Somerset Town Journal, as evidenced by postmarks, shall be deemed to be its date of publication. (Mont. Co. Code 1965, § 59–87.)

Section 83–88. Municipal Infractions and Misdemeanors.

(a) *Municipal Infractions.* Every act or omission which, by ordinance, resolution, rule, or regulation is made a municipal infraction under the authority of this Charter, unless otherwise provided, shall be subject to such civil liabilities as may be authorized by state law.

(b) *Misdemeanors.* Every act or omission which, by ordinance, resolution, rule, or regulation is made a misdemeanor under the authority of this Charter, unless otherwise provided, shall be punishable upon conviction by such penalties as may be authorized by state law, in the discretion of the court. The party aggrieved shall have the right to appeal as is now provided under the general laws of the State of Maryland. Where the act or omission is of a continuing nature and is persisted in, a conviction for one offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (Mont. Co. Code 1965, § 59–88; Reso. R–3–80, 6–24–80; Res. 2-05, 6-22-05.)

Section 83–89. Prior rights and obligations.

All right, title, and interest held by the town or any other person or corporation at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the town, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeded with, and prosecuted to final determination and judgment as if this Charter had not become effective. (Mont. Co. Code 1965, § 59–89.)

Section 83–90. Effect of Charter on corporate status and on existing ordinances, resolutions, rules and regulations.

(a) Neither the adoption of this Charter nor any provision thereof shall be construed to alter or impair in any respect the continued corporate status and existence of the Town of Somerset as heretofore established.

(b) All ordinances, resolutions, rules, and regulations in effect in the town at the time this Charter becomes effective which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of this Charter.

(c) All ordinances, resolutions, rules, and regulations in effect in the town at the time this Charter becomes effective which are in conflict with the provisions of this Charter shall be and the same hereby are repealed to the extent of such conflict. (Mont. Co. Code 1965, § 59–90.)

Section 83–91. Amendments of Charter.

This Charter may be amended at any time by any of the methods and procedures permitted by the laws of the State of Maryland. (Mont. Co. Code 1965, § 59–91.)

Section 83–92. Saving clause.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and the town shall have such other powers as are incident to those specifically mentioned or as are a necessary consequence of the powers mentioned or as are a necessary consequence of the powers herein conferred. In addition to the powers enumerated in this Charter, the town shall have all powers, rights and privileges now or hereafter granted by the Constitution and laws of the State of Maryland. (Mont. Co. Code 1965, § 59–92.)

Section 83–93. Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context

in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. (Mont. Co. Code 1965, § 59-93.)

NOTES

(1) The Somerset Charter set out herein became effective March 10, 1959. Resolutions noted in the historical citations in this chapter are resolutions of the Town of Somerset.

(2) For state law as to fiscal year for all towns, see Anno. Code of Md., 1957, art. 81, § 29A.

(3) For state law as to tax sales, see Anno. Code of Md., 1957, art. 81, §§ 70 to 123.

(4) Thus in the original.

